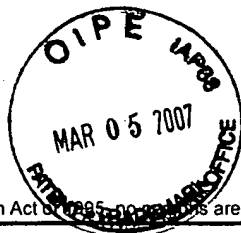


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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

50277-2236

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

On 2/28/07Signature Annette ValdiviaTyped or printed  
name Annette Valdivia

Application Number

10/648,577

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8/25/2003

First Named Inventor

Nimit Jaim

Art Unit

2165

Examiner

Radtke, Mark A.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)☒ attorney or agent of record.  
Registration number 50,266☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34  
Signature

Christian A. Nicholes

Typed or printed name

408.414.1224

Telephone number

2/28/2007  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## REMARKS

As will be seen from the discussion below, the rejections of all of the pending claims are predicated upon clear errors of fact and, consequently, should be reversed.

Claim 1 requires that the creation of the "data structure" be performed "in response to" the invocation of "routines" that are "implemented by a program" that is external to both the loader application and the database server. The Office Action's position is that Skinner's "client" is the "program" of Claim 1 and Skinner's "application server" is the "loader application" of Claim 1. Additionally, the Office Action's position is that the creation of the "data structure," as recited in Claim 1, is the same as the creation of database tables in the database (as disclosed in Skinner, step 404). However, Skinner does not disclose that the database tables are created "in response to" the invocation of routines that are "implemented by" Skinner's "client" (the alleged "program"). Conventionally, the routines that create database tables in a database are implemented by the database server rather than any client that communicates with the database server. Nothing in Skinner indicates that Skinner's approach departs from this convention.

Claim 1 also requires that the "data stream" be "generated based on said data structure." The Office Action's position is that "creating a data structure," as recited in Claim 1, is the same as the creation of the database tables in the database (as disclosed in Skinner, step 404). However, this position does not make sense, because if the "data structure" of Claim 1 was a database table that was created in the database and then populated with values, then there would be no need to also "generate, based on" the database table, a data stream that conformed to a format of data blocks of the database.

Skinner doesn't disclose that any "data stream," which "conforms to a format of the data blocks of the database," is "generated based on" a database table that has already been created in the database.

The Office Action analogizes the limitation "creating a data structure that has one or more elements that correspond to said one or more attributes of said type" to what Skinner discloses in col. 16, lines 60-62, and Fig. 4, step 404. This portion of Skinner refers to the creation of **database tables** in a **database**. Typically, database tables are created in a database by routines that are **implemented in a database server**. However, Claim 1 requires (a) that this "creating" step be performed by "said program" ("said program performing steps comprising: creating"), (b) that "said program" must be "a program that is **external** to both said loader application **and a database server** that manages said database," and (c) that the "routines," in response to whose invocation the "program" performs the "creating," must be "**implemented by**" that same "program." Even if Skinner's approach creates database tables in a database, Skinner does **not** disclose, teach, or suggest that these database tables are created **by a program that is external to a database server** or in response to the invocation of routines that are **implemented by** such an external program. Therefore, Skinner does not disclose the "creating" step of Claim 1 being performed by "a program that is **external** to both said loader application **and a database server** that manages said database" as required by Claim 1.

The Examiner notes that Skinner's step 402 involves creating data class definitions **for** an application tier and a client tier, apparently reasoning that the application tier and the client tier are external to a database server. However, even if the

data class definitions are created **for** these tiers, Skinner does not disclose, teach, or suggest that these data class definitions are created **by** these tiers. Additionally, it appears to be the Office Action's position that the **database tables** of Skinner's step 404, rather than the data class definitions discussed in Skinner's step 402, are analogous to the "data structure" recited in Claim 1.

The rejection of Claim 1 is predicated upon clear errors of fact. Therefore, the rejection of Claim 1 under 35 U.S.C. § 102(b) should be reversed.

Additionally, Claim 6 recites, "wherein said determining comprises locating **addresses of one or more routines that are in a same entry of a table as an identity of said type.**" Thus, Claim 6 requires a table that contains an entry that contains (a) addresses of one or more **routines** and (b) an identity of a type of data (i.e., a **data type**).

Skinner doesn't disclose a table entry that contains both an identity of a data type and addresses **of one or more routines**. The Office Action asserts that Skinner discloses such a table entry at col. 16, line 40. The text at and around this area of Skinner says, "By extracting the attribute names and associated data types for persistent data in each data class, as defined in the schema database, commands, such as SQL 'create table' commands, can be generated and used by the datastore component to structure the database at startup." The Office Action appears for some reason to focus on the phrase "associated data types" in this text. However, there is no mention in the cited text of "routines" or "addresses" of such routines that would be contained in a table entry. The "associated data types" are neither routines nor addresses of such routines.

Although the Office Action does not expressly say so, perhaps the Office Action means that the "create table" commands referenced in this text are supposed to be

analogous to the “routines.” However, even if the commands were “routines,” there is no indication that “addresses” of the commands are ever stored in a table entry themselves.

Therefore, Skinner fails to teach, disclose, or suggest “wherein said determining comprises locating **addresses of one or more routines that are in a same entry of a table as an identity of said type**” as recited in Claim 6. The rejection of Claim 6 is predicated upon clear errors of fact. Therefore, the rejection of Claim 6 under 35 U.S.C. § 102(b) should be reversed.

Like Claim 6, Claim 8 also refers to one or more **addresses** that are associated with a data type. As is discussed above, Skinner does not disclose any association between addresses and data types. The Office Action alleges that Skinner discloses the features of Claim 8 at col. 18, lines 6-10. This portion of Skinner mentions “method calls,” which the Office Action apparently analogizes to the “routines” recited in Claim 8, but this portion of Skinner says nothing about associations between **addresses** and data types. Indeed, this portion of Skinner does not even indicate that the “method calls” themselves are in any way **associated** with data types.

Additionally, Claim 8 requires that the **association** between the one or more addresses and the data type be **via an associative structure** (for example, dispatch table 112 described in the detailed description of the present application). Skinner does not disclose, teach, or suggest that one or more **addresses** of one or more **routines** are **associated with** a data type **via an associative structure**.

Skinner fails to disclose “wherein said invoking comprises invoking one or more routines that are located at one or more addresses that are associated with said type via an associative structure” as recited in Claim 8. The rejection of Claim 8 is predicated upon

clear errors of fact. Therefore, the rejection of Claim 8 under 35 U.S.C. § 102(b) should be reversed.

The remaining dependent claims not specifically discussed above depend from Claim 1. Therefore, these remaining claims inherit the features of Claim 1 that are distinguished from Skinner. The remaining dependent claims also are patentable over Skinner under 35 U.S.C. § 102(b).

In summary, the rejections of all of the pending claims should be reversed, because, as shown above, the rejections of all of the pending claims are predicated upon clear errors of fact.